

BEFORE THE DEPARTMENT OF PUBLIC SERVICE REGULATION
OF THE STATE OF MONTANA

In the matter of the adoption of New)
Rule pertaining to Montana Energy) NOTICE OF PUBLIC HEARING ON
Impact Assistance Financing) PROPOSED ADOPTION
)

TO: All Concerned Persons

1. On November XXXX, at 1:30 p.m., the Department of Public Service Regulation will hold a public hearing in the Bollinger Room, at 1701 Prospect Avenue, Helena, Montana, 59620-2601, to consider the proposed adoption of the above-stated rules.

2. The Department of Public Service Regulation will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, please contact the department no later than 5:00 p.m. on October XXXX. Please contact Loryn Johnson at the department by telephone at (406) 444-6170, by TDD/Montana Relay Service at 444-4212, or by e-mail at Loryn.Johnson2@mt.gov.

3. The rule as proposed to be adopted provides as follows:

38.5.XX MONTANA ENERGY IMPACT ASSISTANCE FINANCING

(1) Guidelines. If an electric utility applies to the Commission to approve a financing order pursuant to the Montana Energy Impact Assistance Act, the electric utility's application to the Commission must describe how such financing satisfies or follows from a plan developed pursuant to Mont. Code Ann. § 69-3-1201 et seq. and any responsive Commission comments.

(2) Minimum Filing Requirements. An application for a Montana Energy Impact Assistance Act financing order must generally be consistent with the minimum filing requirements established in Mont. Admin. R(s). 38.5.101 through .195, and the relevant statutory requirements in Mont. Code Ann. §§ 69-3-1601 through -1623.

(3) Administrative Penalty. The Commission may assess a penalty for any violations of the Montana Energy Impact Assistance Act, Mont. Code Ann. §§ 69-3-1601 through -1623. A penalty must be reasonable, based on the amount in controversy, and specific to the facts and circumstances presented for each violation. Penalty amounts must be determined after providing parties an opportunity to appear and be heard. Penalties must be recovered from electric utilities under the procedure required by Mont. Code Ann. § 69-3-206(2).

AUTH: 69-3-1604, MCA
IMP: 69-3-1604, MCA

STATEMENT OF REASONABLE NECESSITY: The Commission proposes the rule to facilitate implementation of the Montana Energy Impact Assistance Act, which, under House Bill 467, L. 2019, provides an alternative financing mechanism to address the retirement and replacement of electric infrastructure or facilities and to authorize the Montana Public Service Commission to review and approve one or more financing orders, if it deems approval appropriate and in the interest of ratepayers.

The Commission proposes (1) to align Montana Energy Impact Assistance Financing with least-cost planning requirements to ensure financing orders are consistent with just and reasonable rates and prudent utility resource planning decisions.

The Commission proposes (2) to align minimum filing requirements generally with those required for utility rate case applications. This provides a general framework to guide utility applications that may impact various aspects of a utility revenue requirement. The term "generally" is meant to avoid strict conformity with the current minimum filing requirements, which were not adopted to address the financing mechanisms provided by the Montana Energy Impact Assistance Act.

The Commission proposes (3) to establish general guidelines and a procedure for the Commission to determine and assess the administrative penalty provided in Mont. Code Ann. § 69-3-1604. The Commission determines that there is no need to establish a separate procedure for seeking administrative penalties where Mont. Code Ann. § 69-3-206(2) already provides statutory means to do so. The Commission also determines that the penalty guidelines should be reasonable, as opposed to amount-specific, to ensure that the Commission has appropriate flexibility to respond to the facts and circumstances for any potential utility violation of a financing order or provision of the Act.

4. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to Loryn Johnson, Department of Public Service Regulation, 1701 Prospect Ave, Helena, Montana, 59620-2601; telephone (406) 444-6170; fax (406) 444-7618; TDD/Montana Relay Service 444-4212; or e-mail loryn.johnson2@mt.gov, and must be received no later than 5:00 p.m., November 5, 2021.

5. The Montana Consumer Counsel, 111 North Last Chance Gulch, Suite 1B, Helena, MT 59620-1703, telephone (406) 444-2771, is available and may be contacted to represent consumer interests in this matter.

6. The Commission, a Commissioner, or a duly appointed presiding officer may conduct the hearing.

7. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have

their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 4 above or may be made by completing a request form at any rules hearing held by the department.

8. The bill sponsor contact requirements of 2-4-302, MCA, apply.

9. With regard to the requirements of 2-4-111, MCA, the department has determined that the adoption of the above-referenced rule will not significantly and directly impact small businesses.

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